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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,490	06/23/2003	N. Douglas Owens	MOD-063-01	1407
27268	7590	02/01/2006		
BAKER & DANIELS LLP 300 NORTH MERIDIAN STREET SUITE 2700 INDIANAPOLIS, IN 46204			EXAMINER MCCARRY JR, ROBERT J	
			ART UNIT 3617	PAPER NUMBER

DATE MAILED: 02/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/601,490	OWENS, N. DOUGLAS	
	Examiner	Art Unit	
	Robert J. McCarry, Jr.	3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7 is/are allowed.
- 6) ☒ Claim(s) 8-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Harris (EP 408,006 B1).

Harris discloses a track and trolley apparatus for movable wall panels 18 comprised of a plurality of track sections 42, 44, a set of diverter blades 48 act as a switch assembly at a junction in the track, as shown in figure 9. The blade 48 is laterally offset from the center of the track and also offset from the main track, as shown in figure 9. The system is further comprised of a plurality of trolleys attached to wall panels 18 by means of pendant bolt 34. The trolley is further comprised of a chassis 22 for accepting axles having wheels 24 mounted thereon. The trolley has a guide plate 47 positioned under the chassis 22 and connected by means of a downwardly extending base portion 36. The guide plate 47 as well as the top of the chassis 22 has diverting elements 46 to contact the diverter blades of the tracks so as to move the trolley from one track to another. The diverter elements 46 are laterally offset from the center of the trolley so as to mate with the diverter blades as shown in figures 10 and 11. One part of the extending pins 46 that mate with the diverter blades 48 are mounted to the side of the lower guide plate 47. The roller 36 acts as a center diverter element for the vehicle and

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the roller 36 also supports a pin support 47, which is comprised of additional diverter elements laterally spaced from the center of the trolley. The roller 36 is installed at a position along the centerline, or center axis, of the vehicle. This roller acts as a center diverter in that it comes in contact with support surfaces 49 and will follow the support surfaces, thereby guiding the vehicle. The second set of diverter elements 46 supported by pin support 47 is shown in figure 11.

Response to Arguments

Applicant's arguments, see page 13 of the Appeal Brief, filed 11/25/2005, with respect to the rejection(s) of claim(s) 1-13 under 35 USC 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Harris (EP 408,006 B1) over claims 8-13.

Applicant argues that the prior art does not show a center diverter element positioned on the center axis or centerline of the vehicle. Claim 1 of the recited claims states that the center diverter is on the center point on the center axis. Claim 8 recites the center diverter is at a position on said center axis. This does not specifically state where on the center axis the center diverter is positioned. Therefore the roller 36 is at a position along the center axis. Claim 11 recites a second diverter...substantially coincident to the centerline of the vehicle. This is broader than the statement of claim 8 reciting the center diverter is on the center axis. The center roller 36 of Harris is coincident with the center of the vehicle. Claim 13 recites that the center diverter be

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positioned along the centerline. As stated above the roller 36 of Harris is positioned along the centerline.

Allowable Subject Matter

Claims 1-7 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. McCarry, Jr. whose telephone number is (571) 272-6683. The examiner can normally be reached on Monday through Friday 7:00am to 3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joseph Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert J. McCarry, Jr.
Examiner
Art Unit 3617

RJM
January 26, 2006



S. JOSEPH MORANO
SUPERVISORY PATENT EXAMINER